

#11/D

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT : **GOGERTY, Joseph Kevin**
 SERIAL NO : 09/760,324
 FILED : January 12, 2001
 TITLE : HYBRID MAIZE PLANT AND SEED 34N16

Grp./A.U. : 1638
 Examiner : FOX, David T.
 Conf. No. : 2686
 Docket No. : P04811USO

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PRELIMINARY AMENDMENT

Mail Stop Fee Amendment
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

Dear Sir:

In response to the communication from the Examiner dated February 25, 2003, a Final Rejection, and an Advisory Action dated June 11, 2003, it is respectfully requested that the following Preliminary Amendment and Request for Continued Examination (RCE) be entered and made of record. It is believed that the following amendments and remarks place the application in the form for allowance, or at least, place the claims in a better form for Appeal. No new matter is presented, as such the Amendment is proper under 35 C.F.R. § 1.116. Applicant respectfully requests reconsideration.

Introductory Comments

Claims 1-42 are pending in the present application.

CERTIFICATE OF MAILING BY EXPRESS MAIL

I hereby certify that this document and the documents referred to as enclosed therein are being deposited with the U.S. Postal Service in an envelope as "Express Mail Post Office to Addressee" addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, prior to 5:00 p.m. on the 11th day of July, 2003.

Michelle L. Woods
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**Request
For
Continued Examination (RCE)
Transmittal**

Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

<i>Request For Continued Examination (RCE) Transmittal</i>	<i>Application Number</i>	09/760,324
	<i>Filing Date</i>	January 12, 2001
	<i>First Named Inventor</i>	GOGERTY, Joseph Kevin
	<i>Art Unit</i>	1638
	<i>Examiner Name</i>	Fox, David T.
	<i>Attorney Docket Number</i>	P04811US00

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

a. Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

i. Consider the arguments in the Appeal Brief or Rely Brief previously filed on _____
ii. Other _____

b. Enclosed

i. Amendment/Reply iii. Information Disclosure Statement (IDS)
ii. Affidavit(s)/Declaration(s) iv. Other _____

2. **Miscellaneous**

a. Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(l) required)
b. Other _____

3. **Fees** The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 26-0084

i. RCE fee required under 37 CFR 1.17(e)
ii. Extension of time fee (37 CFR 1.138 and 1.17)
iii. Other _____

b. Check in the amount of \$ 860.00 enclosed

c. Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print/Type)	LILA A. T. AKRAD	Registration No. (Attorney/Agent)	52,550
Signature	<i>Lila A. T. Akrad</i>	Date	7/11/2003

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Name (Print/Type)	LILA A. T. AKRAD	Date	7/11/2003
Signature	<i>Lila A. T. Akrad</i>		

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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DATE: September 29, 2003

TO: Examiner David T. Fox

COMPANY: United States Patent & Trademark Office

PHONE:

FAX: (703) 746-5060

FROM: Lila A. T Akrad

NUMBER OF PAGES (Including cover): 23

APPLICANT :	GOGERTY, Joseph Kevin
SERIAL NO :	09/760,324
FILED :	January 12, 2001
TITLE :	HYBRID MAIZE PLANT AND SEED 34N16
Grp./A.U. :	1638
Examiner :	FOX, David T.
Conf. No. :	2686
Docket No. :	P04811USO

PRELIMINARY AMENDMENT

As per your request on September 29, 2003.

THE DOCUMENTS ACCOMPANYING THIS FACSIMILE TRANSMITTAL COVER SHEET CONTAIN INFORMATION FROM THE LAW FIRM OF MCKEE, VOORHEES & SEASE WHICH MAY BE CONFIDENTIAL AND/OR LEGALLY PRIVILEGED. THE DOCUMENTS ARE INTENDED ONLY FOR THE PERSONAL AND CONFIDENTIAL USE OF THE ADDRESSEE IDENTIFIED ABOVE. IF YOU ARE NOT THE INTENDED RECIPIENT OR AN AGENT RESPONSIBLE FOR DELIVERING THESE DOCUMENTS TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY REVIEW, DISCLOSURE, COPYING, DISTRIBUTION OR THE TAKING OF ANY ACTION IN RELIANCE ON THE CONTENTS OF THIS TRANSMITTED INFORMATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE IMMEDIATELY NOTIFY THIS FIRM SO THAT WE CAN ARRANGE FOR THE RETURN OF THE ORIGINAL DOCUMENTS TO US. THANK YOU.

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Washington, DC 20231



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July 11, 2003 Attorney Docket No. P04811US00

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Request for Continued Examination (RCE) Transmittal
(1 page)
Fee Transmittal (1 page in duplicate)
Preliminary Amendment (1~~5~~ pages)
Appendix A (3 pages)
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